

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BRITTANY SIMON

Plaintiff,

v.

PHILLIPS EDISON & COMPANY
LTD.; SPIVEY JUNCTION STATION
LLC; THE KROGER CO.; JOHN
DOE #1; AND JOHN DOES # 2-4,

Defendants.

CASE NO:

Removed from the State Court
of Gwinnett County, Georgia
Civil Action File No:
23-C-00653-S4

NOTICE OF REMOVAL

Defendants PHILLIPS EDISON & COMPANY LTD. and SPIVEY JUNCTION STATION LLC (“Defendants”), through counsel and pursuant to 28 U.S.C. § 1446, file this Notice of Removal of the action now pending in the State Court of Gwinnett County, State of Georgia, Civil Action File No. 23-C-00653-S4, styled *Brittany Simon v. Phillips Edison & Company LTD; Spivey Junction Station LLC; The Kroger Co.; John Doe #1; and John Does #2-4* (the “civil action”), respectfully showing this Honorable Court as follows:

1. On January 29, 2023, Plaintiff Brittany Simon (hereinafter “Plaintiff”) filed the civil action in the State Court of Gwinnett County, State of Georgia.

Copies of the Summons and Complaint filed by Plaintiff are attached hereto as “Exhibit A.”

2. In the civil action, Plaintiff pursues a cause of action for negligence and vicarious liability against Defendants arising out of an April 24, 2021, slip and fall in which Plaintiff alleges she sustained injuries. *See generally* (Complaint).
3. In the civil action, Plaintiff states she sustained serious injury, physical pain, mental pain, and psychological suffering including medical expenses in excess of \$100,000.00. (Complaint ¶¶ 62, 63).
4. Because the amount in controversy in the civil action exceeds \$75,000.00, exclusive of interest, costs, and attorney’s fees, the amount in controversy requirement necessary for removal pursuant to 28 U.S.C. §§ 1332(a), 1441(b) is satisfied.
5. At all times material to this litigation, Plaintiff has been a resident of the State of Georgia (Complaint ¶ 1).
6. At all times material to this litigation, Defendant PHILLIPS EDISON & COMPANY LTD., has been a for profit corporation organized under the laws of the State of Ohio with its principal place of business in the State of Ohio.

7. At all times material to this litigation, Defendant SPIVEY JUNCTION STATION LLC has been a for profit corporation organized under the laws of the State of Delaware with its principal place of business in the State of Delaware.
8. According to the Georgia Secretary of State's website, Defendant THE KROGER CO. is a for profit corporation organized under the laws of the State of Ohio with its principal office in the State of Ohio.
9. Because the civil action is between citizens of different States, removal on the basis of diversity is proper pursuant to 28 U.S.C. §§ 1332(a), 1441(b).
10. The civil action was commenced in the State Court of Gwinnett County, State of Georgia on January 29, 2023. Plaintiff filed an Affidavit of Process Server indicating that he had served the registered agent of Defendant Phillip Edison & Company LTD., with a copy of the Summons and Complaint on February 3, 2023. Accordingly this notice is timely filed pursuant to 28 U.S.C. § 1446(b)(1) and Fed. R. Civ. P. 6(a)(1)(C).
11. The civil action was commenced in the State Court of Gwinnett County, State of Georgia on January 29, 2023. Plaintiff filed an Affidavit of Process Server indicating that he had served the registered agent of Defendant Spivey Junction Station LLC with a copy of the Summons and Complaint on

February 6, 2023. Accordingly this notice is timely filed pursuant to 28 U.S.C. § 1446(b)(1) and Fed. R. Civ. P. 6(a)(1)(C).

12. Pursuant to 28 U.S.C. § 1446(d), Defendants PHILLIPS EDISON & COMPANY LTD., and SPIVEY JUNCTION STATION LLC have provided written notice to all adverse parties and have filed a copy of this Notice of Removal with the Clerk of the State Court of Gwinnett County, State of Georgia (A copy of the Notice of Filing of Notice of Removal submitted to the Clerk of the State Court of Gwinnett County, State of Georgia is attached hereto as “Exhibit B”).

WHEREFORE, Defendants PHILLIPS EDISON & COMPANY LTD., and SPIVEY JUNCTION STATION LLC respectfully submits this matter to this Court’s jurisdiction and removes the civil action to this Court.

This 27th day of February, 2023.

**WILSON ELSEER MOSKOWITZ
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*Counsel for Defendants Phillips Edison
& Company LTD and Spivey Junction
Station, LLC*

CERTIFICATE OF SERVICE

This is to certify that I have caused the within and foregoing *NOTICE OF REMOVAL* to be served on all parties via statutory electronic service and/or by U.S. Mail with adequate postage attached which shall cause a copy to be delivered to the following:

Morgan L. Medders
The Medders Law Firm, LLC
2870 Peachtree Road, #104
Atlanta, GA 30305
morgan@medderslawfirm.com
Counsel for Plaintiff

The Kroger Co.
c/o CSC of Cobb County, Inc.
192 Anderson Street SE, Suite 125
Marietta, GA 30060

DATE: February 27, 2023.

/s/ Michael P. Manfredi
Michael P. Manfredi